

FILED
U.S. DISTRICT COURT
DISTRICT OF WYOMING

2023 JAN -6 AM 2:56

MARGARET R. ATKINS, CLERK
CHEYENNE

UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

STEPHEN P. KELLY,
General Delivery.
U.S. Post Office.
Billings, MT 59101,
Plaintiff,

23-CV-4-J

v/s.

CITY OF POWELL POLICE DEPARTMENT,
& Wyoming Law enforcement
entity, and CALEB SCHMIDT, in
his official capacity, 250
N. Clark Street., Powell, WY
82435,
Defendant(s).

CIVIL COMPLAINT

comes now the Plaintiff in the above styled action and does show cause for complaint as follows:

(1) This is an action sustained by, STEPHEN P. KELLY, hereinafter, Plaintiff KELLY, and sues the defendant's somely, and in their official capacities, CITY OF POWELL POLICE DEPARTMENT, Wyoming Law enforcement entity, and CALEB SCHMIDT, in his official capacity, alleging:

(A) Abuse of Authority, (B) Unlawful intimidation by Law enforcement, (C) corrupt fabricated Police report, (D) & conspiratorial predicate fact, and (E) coerced and concocted Version of material fact!

PARTIES

(1) Plaintiff STEPHEN P. KELLY, was a victim of check fraud, and filed an official police report with the city of POWELL POLICE department, and with police officer-defendant CALEB SCHMIDT!

(2) Governmental defendant, the city of POWELL POLICE department exists as a Wyoming law enforcement entity, and obtains primary oversight of police officer, Caleb Schmidt, acting in his official capacity!

(3) Capacity defendant, CALEB SCHMIDT, acts in his official capacity as a clothed with authority police officer employed with the city of POWELL POLICE DEPT.

NATURE OF THE CASE

(5) This concise case is predicated upon U.S. Civil Rights Statute 42 U.S.C. § 1983, where a false and fabricated police report is generated at the hands of a corrupt and charge aggressive police officer!

(6) The severe aspects of a corrupt and knowing conspiratorial predicate act rises here!!

(7) A severe predicate act of unlawful intimidation at the hands of corrupt law enforcement personnel exists where a clothed with authority police officer has placed excessive and unreasonable pressure and an attempted coerced and frivolous confession by (threat) of prosecution upon this plaintiff, where there is in fact a concealed bias in the

Unequal balanced investigation when a police officer is in fact a personal friend of the actual original suspect, as in a severe corrupt turn and twist of the true and actual materials facts in removing a sole victim party into a suspect with no plausible merit what so ever! In this specific case there is a clear violation of Fourteenth Amendment secured pursuant to the equal protection of the law clause!

(8) while the U.S. Supreme Court authorized a confession played by a lying police officer, the specific meaning and legal definition was clearly not intended to merely harass, intimidate, or force a person of clear innocence to admitting any guilt when such party is clear of the false and malicious accusations based by a police officer, where a party is in fact entitled to remain

silent and may very well prevail during a jury trial process!!! once a forced confession is made, then it is most complex for one to prevail in a criminal jury trial!!! The true and actual meaning of this supreme court ruling is very often abused and clearly misinterpreted by corrupt law enforcement personnel!! If the understanding of a coerced confession as is so abused by law enforcement, then it would in fact exists as so unjust, and even unconstitutional!!!!

(9) This specific case here may be later need to re-visited on certiorari!

JURISDICTION AND VENUE

(10) This federal court obtains subject matter jurisdiction pursuant to 42 U.S.C. § 1983!

(11) Natural defendant, a uniformed police officer is in fact a state actor, and is liable under 1983!

(12) Natural defendant, is clothed with state authority, and acts under color of law!

(13) Governmental defendant's, the city of POWELL Police Department, exists as an official city entity under the governance of the state of Wyoming, and is liable under 42 U.S.C. § 1983.

(14) Plaintiff, STEPHEN P. KELLY, is a citizen and resident of the state of Montana, and resided in the state of Wyoming during such time of initial incident!

(15) Natural defendant,
CALEB SCHMIDT, is a resident
of the state of Wyoming, and
has resided in Wyoming at all
times material to this action.

(16) Governmental defendant's,
are a sole Wyoming law
enforcement entity, and are
obligated in which to enforce
legislations solely within
the governed state of Wyoming!

(17) The damage amount in
dispute is in excess of; \$75,000.

(18) This federal court obtains
further judicial jurisdiction,
where Plaintiff here/KELLY,
is in clear compliance with
the federal court abstention
doctrine, where there are in
fact no criminal charges
filed by the Park County
Attorney, or not by any other
agency filed upon KELLY! The
Park County Attorney's office
has made clear to KELLY, that

there exists no intent to file
of any criminal charges, as KELLY,
had already filed a civil
lawsuit within this same
court upon his bank, KELLY, vs.
FIRST BANK OF WYOMING, ET-AL.
CASE NO. # 2:22-cv-00258-ABJ.
DATE FILED - 12/12/2022!

(19) Venue is proper in the District of Wyoming because each event giving rise to this action accrued in the District of Wyoming. 28 U.S.C. § 1331.

STATEMENT OF FACTS

(20) This civil complaint is clearly plausible upon its face where while the federal constitution most clearly does not secure any protection of citizen's by law enforcement, the specific issue here rises as a corrupt predicate conspiratorial act, and corruption at the hands of law enforcement personnel!

(21) On December - 12th, 2022, KELLY, in fact filed a civil action / lawsuit upon his bank, the First Bank of Wyoming, and he named within the confines of the civil complaint a corrupt and violative banking personnel, (Dianne Schwantes), acting in her official capacity! A related case exists; No. 42-22-cv-00258-ABJ. (Exhibit - A).

(22) Solely a few day's later, on December - 15th, 2022, joint bank personnel - Bob Golden, Dianne Schwantes, and Jessie Watts, in a severe act of retaliation engaged into an unlawful conspiratorial predicate act of a concocted and fabricated story, falsely claiming that KELLY, had written an N.S.F. check, where Schwantes, engaged into a severe unlawful act, and arranged a conspiracy with bank customer - Chad Flemming to in fact forge one of KELLY's check's and directed Flemming to attempt

to cash the same at the
Powell bank branch in a
severe corrupt turn and
twist in which to cause a
false presentation upon KELLY,
and a fabricated appearance
that KELLY, had actually
written the check executed
to Chad Flemming! A severe
conspiratorial act exists
here!!!

(23) Because KELLY, was in fact already litigating upon
the bank, Watts, Golden, and
Schwantes, jointly, and in a
combined conspiratorial
predicate act engaged into
a corrupt turn and twist in
which to right out frame
KELLY, falsely asserting
that KELLY, had engaged
in to a criminal act!

(24) KELLY, had in fact
already reported Schwantes,
and Watts, to the federal
Bureau of investigation
financial institution fraud
unit in Salt Lake city,

which investigates
racketeering activity of
a corrupt enterprise
pursuant to the federal
(RICO) STATUTES!

(25) on December- 21th, 2022,
bank executive personell,
(Bob Golden), entered a
telephone into KELLY, and
noted to KELLY, that a party
(chad Flemming), had in
fact entered into the Powell
bank branch and attempted
to cash one of KELLY's, bank
check's, where Mr. Golden,
made clear to KELLY, that
the hand writting upon this
concise check, clearly
conflicted with the hand
writting of KELLY's, official
signature on file with the
bank!!

(26) Setting KELLY, up, Mr.
Golden, advised KELLY, to
inquire with the Powell
police department in which
to file an official police

report sufficing forbery, and
fraud!

(27) Attempting to do the right thing, and a step in which to take corrective action, KELLY, in fact based a police report with the city of Powell police department, where city police officer, Caleb Schmidt, was assigned to investigate this specific case, however, a severe biased and sincere conflict of interest existed where this specific police officer here sued is in fact a very close and personal friend with original suspect - chad Flemming, and it just so happens that officer Schmidt, is also a personal friend with bank personnel, (Dawn Schwantes), whom which KELLY, was already suing prior to this concise investigation at the hands of clearly a biased police officer, (Caleb Schmidt)!

(28) clearly knowing the above, officer/defendant, Schmidt, refused to recuse and remove himself from this biased investigation, in clear and severe violation of KELLY's, civil rights secured under the Fourteenth Amendment, "EQUAL Protection of the Law"!!!

(29) Subsequent to a very brief, and even so much a value investigation per officer/defendant - Schmidt, Schmidt, contacted KELLY, and in a very harsh and threatening tone defendant - Schmidt, commenced into accusing KELLY, of basing a false police report, and of bank fraud, in a severe manipulation of the true and factual material facts of the real events of this issue, in a corrupt cover up, and a corrupt turn and twist of what actually rose, in which to protect his/schmidt's

personal friend from
criminal prosecution, in
Schmidt, in a tone of clear
anger quoting to KELLY, that
KELLY, was now at the status
of a suspect instead of
initial victim status!!

(30) In showing here clear plausibility in this claim of the violation of civil rights engaged into in a corrupt predicate act of a cover up, and severe biased, at the hands of defendant - Schmidt, the defendant, here, Schmidt, refused with clear intent to remove himself from such biased and conflicted investigation, and to assign this specific case over to a non-biased police officer, or investigator, in clear violation of the (equal protection clause), secured under the Fourteenth Amendment!!! When dealing with any government agency entity - state, federal, or a local city entity, then the

United States constitution,
and civil rights protections
applies!

(31) This action is clearly a
federal civil rights suit under
42 U.S.C. § 1983!

(32) A claim of unlawful
intimidation exists here,
where plaintiff KELLY, shows
that defendant, Schmidt,
most unlawfully, harassed,
intimidated, pressured by
threat of criminal prosecution,
and attempted to coerce KELLY,
in his recorded police phone
conversation between KELLY,
and officer Schmidt, where
during a third phone convers-
ation on December 27th,
2022, officer/defendant,
Schmidt, made a clear quote to
KELLY, that he/Schmidt,
would ensure a thirty (30) year
prison sentence upon KELLY,
in the event that KELLY,
refused at that concise
moment and time to; (4)

confess upon a recorded police line to fraud; (b) a false police report, and (c) that KELLY, had better withdraw the pending civil lawsuit in which KELLY, had filed upon Dianne Schwantes in her official capacity, as a staffing personnel of corporate defendant's - First Wyoming bank. (see copy - civil docket sheet; secondary listed defendant). Exhibit - (A).

These all were the exact words and quotes per officer Caleb Schmidt! A sincere motion to compel, and a judicial subpoena will later be filed per Plaintiff KELLY, sufficing the production of the recorded police phone conversation between KELLY, and Officer - Schmidt, during the disclosure and discovery process prior to a civil jury trial in this civil case!

(33) Rising to much more plausibility in this action, officer/defendant - Schmidt, did in fact officially charge KELLY, with fraud, and a false police report at the cause that KELLY, right out refused to comply with the above articulated three demands of officer/defendant, however, the Park County attorney, refused to file any criminal charges upon KELLY, where KELLY, still yet, suffered one and a half week's of; worry as to being charged; excessive emotional distress; and hardship in a thought pattern of being sent to prison over a crime at which he most certainly did not engage into, placed upon him at the sole hands of defendant - Caleb Schmidt!

(34) Sufficient civil
liability upon the named
defendant, the city of
Powell police department,
Plaintiff KELLY, in fact
reported this corrupt police
misconduct of officer
Schmidt, to the Powell police
chief, however, with clear
knowing and intent, the
Powell police chief took no
steps of corrective action,
and in fact condoned the
corrupt actions of officer
Schmidt! KELLY, spoke
directly with the Powell
police chief!

INJURY

(35) As to intimidative + threat
of prosecution, and the severe
threat of being sent to prison
for a lengthy time period, KELLY,
suffered, worry; emotional
distress; and mental hardship;
of those terrible thoughts

placed upon him at the hands
of a corrupt police officer!!

CLAIM ONE

(36) Plaintiff KELLY's civil rights to equal protection under the law secured by the Fourteenth Amendment, were clearly violated at the hands of a biased police officer, in result of a severe biased criminal investigation!

CLAIM TWO

(37) Unlawful intimidation exists where a clothed with authority police officer coerced Plaintiff KELLY, into admitting to two crimes at which Plaintiff most certainly did not ensue into, with a corrupt threat of prosecution, placing unreasonable fear upon KELLY, of a lengthy prison sentence!! Plaintiff did not confess to the two crimes!

CLAIM THREE

(38) A conspiracy and predicate act exists here where a clothed with authority police officer, and State actor fabricated and right out lied within the confines of an official police report or government document, falsely asserting that KELLY, quoted certain information at which implicated KELLY, of SUITE, while it is clear that the U.S. Supreme court ruled that an investigating police officer may in fact lie to a suspect in which to obtain a coerced confession, yet, it is clearly prohibited under law, State and Federal in which for a police officer to lie or to fabricate false information in an official police report!! This was in fact a severe predicate conspiracy between officer/defendant Schmidt, jointly and combined with criminal suspect - chad Flemming, in which to most falsely turn and twist the

investigation in removing
plaintiff from a sole victim
into a criminal suspect !!

CLAIM FOUR

(39) The meaning of the U.S.
Supreme court was most
certainly to not ensure that
an "[innocent]" person be in
error, or by sincere mistake
prosecuted !!!

CLAIM FIVE

(40) A abuse of law enforcement
rises here where an officer
obtaining such authority has in
a most corrupt avenue and turn
and twist imposed a threat of
prosecution upon KELLY, SOLELY,
in the event that KELLY,
continued to refuse to confess
to fraud, and a false police report !!

RELIEF

WHEREFORE, upon the premises considered, it is most respectfully requested upon this Honorable court for the entry of a civil judgment as follows:

(A) Find this civil complaint plausible upon its face!

(B) Find that a cognizable legal theory exists where this Honorable court can in fact draw a reasonable inference that the defendant's are in fact liable for the severe misconduct alleged.

(C) A civil jury trial is so requested.

(D) Find that the concise claims within this civil complaint are in fact drawn upon the merit of clear plausibility instead of mere possibility !!

(E) Actual damage awards in a financial amount of; \$265,000, or another reasonable amount as deemed proper by this court.

Mental and emotional distress,
and worry causing emotional
hardship upon Plaintiff.

I declare under penalty of perjury the foregoing to be true and correct.

Signed this 3rd, Day of January, 2023.

Stephen P. Kelly. C
(SIGNATURE OF PLAINTIFF)

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**U.S. District Court
District of Wyoming (Cheyenne)
CIVIL DOCKET FOR CASE #: 2:22-cv-00258-ABJ**

Kelly v. First Bank of Wyoming et al
Assigned to: Honorable Alan B Johnson
Referred to: Honorable Kelly H Rankin
Cause: 28:1332 Diversity-Other Contract

Date Filed: 12/12/2022
Jury Demand: None
Nature of Suit: 190 Contract: Other
Jurisdiction: Diversity

Plaintiff

Stephen P Kelly

represented by Stephen P Kelly
General Delivery
U.S. Post Office
Billings, MT 59102
PRO SE

V.

Defendant

First Bank of Wyoming
a Wyoming corporation

Defendant

First Bank of Wyoming Teller
Supervisor
in her official capacity
also known as
Diann Schwantes

Date Filed	#	Docket Text
12/12/2022	<u>1</u>	COMPLAINT FOR DECLARATORY JUDGMENT, INJUNCTIVE RELIEF, SPEEDY HEARING AND DAMAGES filed by Plaintiff Stephen P Kelly (Filing fee \$ 402: IFP filed) (Attachments: # <u>1</u> Envelope, # <u>2</u> Consent) (Court Staff, stbd) Modified text on 12/13/2022 (Court Staff, sbh). (Entered: 12/12/2022)
12/12/2022	<u>2</u>	MOTION to Proceed In Forma Pauperis filed by Plaintiff Stephen P Kelly. (Court Staff, stbd) (Entered: 12/12/2022)

EXHIBIT - (A)

PACER Service Center	
Transaction Receipt	
12/14/2022 13:11:43	
PACER Login:	crystaltoner
Client Code:	

23-CV-4-J

To: Clerk, U.S. Dist. Court.

RECEIVED

JAN 06 2022

CLERK, U.S.D.C.
CHEYENNE, WYOMING

Note! Important! The specific mailing address upon the enclosed civil complaint is proper & active for me!

Note! I am WELL aware that in any event that I relocate mailing addresses that I am clearly obligated in which notify your office in an official notice of change of mailing address, and I most certainly will do so!!!

In some of my other cases pending in your courtified. court, at times the post office in Billings where I reside will make a mistake, if your office has any returned mail to your office in my cases!

Before long I may in fact open up a post office which would be much better for me! Again, I will clearly notify your office of any changes of mailing addresses!! Thank you so much!

#2.

Enclosed is an original I.F.P. application, signed & dated by me.

ALSO enclosed, is an original civil complaint ALSO signed & dated by me obtaining my original signature!

I will soon after this, concise civil complaint is in fact docketed per your office, I will then file a special motion for service of process under a rule (4) waiver to be ordered by the judge, or the U.S. magistrate!

once an order of service of process is in fact directed by the judge/court, then official copies of the civil complaint will in fact be generated directly out of your offices official computer system, obtaining the assigned case numeration upon the face of each page!

Please docket this concise case, & its I.F.P. application. Again, I will clearly keep your office notified of any address change! Thank's much! Stephan P. Kelt. -

#3.

P. S. CLERK, ALSO UPON THE FACE OF THE
I.F.P. APPLICATION where there is a
space for district of Wyoming, being
that there is in fact SOLELY one
district for the federal court in
Wyoming I left the initial line
BLANK!

ALSO there is an ATTACHED
exhibit to the civil complaint, and
is clearly marked.

Thank you so much again!

STEPHEN P. KELLY,
GENERAL DELIVERY,
U.S. POST OFFICE,
BILLINGS, MONTANA 59101



RDC 23



82001

U.S. POSTAGE PAID
FCM LG ENV
HARLAN, IA
51537
JAN 03, 23
AMOUNT

\$2.16

R2304W120346-15

To: CLERK, UNITED STATES DISTRICT COURT,
FEDERAL COURTHOUSE,
2120 CAPITAL AVE., RM. # 2131
CHEYENNE, WYOMING 82001